

Short Title: Orders for Poss. in Real Property Partitions.

A BILL TO BE ENTITLED

AN ACT TO ALLOW CLERKS OF COURT TO ENTER ORDERS FOR POSSESSION IN
PROCEEDINGS FOR PARTITIONS IN KIND OF REAL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 46 of the General Statutes is amended by adding
a new section to read:

"§ 46-19.1. Order for possession.

(a) An order for possession of real property allotted pursuant to this Article, in favor of
the party to which an allotment has been made and against any party in possession at the time
of application therefor, may be issued by the clerk of the superior court if all of the following
apply:

(1) No appeal from the order of confirmation of the report of commissioners has
been made within the time prescribed under G.S. 1-301.2, or if an appeal has
been made, the judge confirmed the report pursuant to G.S. 46-19(c).

(2) The report and confirmation have been duly recorded in the office of the
register of deeds pursuant to G.S. 46-20.

(3) Ten days' notice has been given by the party applying for the order for
possession to the party or parties who remain in possession at the time
application is made. The notice shall not be given until the clerk has
confirmed the report of the commissioners pursuant to G.S. 46-19.

(b) An order for possession issued pursuant to this section shall be directed to the
sheriff and shall authorize the sheriff to remove all occupants and their personal property from
the real property and to put the party to which an allotment has been made in possession, and

1 shall be executed in accordance with the procedure for executing a writ or order for possession
2 in a summary ejectment proceeding under G.S. 42-36.2. The party to which an allotment has
3 been made has the same rights and remedies in connection with the execution of an order for
4 possession and the disposition of personal property following execution as are provided to a
5 landlord under State law, including Chapters 42 and 44A of the General Statutes."

6 **SECTION 2.** This act becomes effective [August 1, 2018], and applies to
7 applications for orders for possession filed on or after that date.